

In re: ROBERT MILEUR) OEIG Case # 10-01246

Robert Mileur is an IEPA Environmental Protection Specialist. Mr. Mileur's duties and responsibilities include inspecting southern Illinois landfills and reporting violations of the

Illinois Environmental Protection Act and the Illinois Administrative Code. As part of his duties, Mr. Mileur submits reports detailing his inspections.

A. Interviews of [employee 1] Relating to IEPA Inspections

On November 10, 2010, March 22, 2011, and April 26, 2011, OEIG investigators interviewed [employee 1], [identifying information redacted]. During the interviews, [employee 1] said that IEPA Environmental Protection Specialists, like Mr. Mileur, conduct quarterly and surprise inspections at regulated sites throughout the state. [Employee 1] stated that individual inspectors are responsible for scheduling and conducting inspections at their assigned sites. [Employee 1] also said that IEPA does not utilize a master calendar for all pending inspections. However, he noted that inspectors often discuss inspections between themselves.

[Employee 1] explained that inspectors are required to document all violations that they see during inspections. [Employee 1] also stated that he did not know of any IEPA policy that provided inspectors the discretion to ignore any violations, no matter how “minor.”

[Employee 1] said that Mr. Mileur was responsible for inspecting West End until August 2010. [Employee 1] recalled that he reassigned Mr. Mileur’s responsibilities relating to West End to [employee 2], because Mr. Mileur had developed a personal relationship with [the owner], West End’s owner. [Employee 1] said that it appeared that Mr. Mileur’s relationship with [the owner] affected Mr. Mileur’s inspections.

[Employee 1] stated that IEPA issued a Notice of Violations to West End following [employee 2’s] October 2010 inspection of the facility. [Employee 1] said that during [employee 2’s] inspection, she saw and reported violations that were the most serious he had seen in over a decade. [Employee 1] advised that he anticipated IEPA would refer West End to the Illinois Attorney General for civil prosecution after West End submitted its response to IEPA.¹ In addition, [employee 1] said that IEPA had referred less severe violations at other landfills to the Illinois Attorney General, which have typically resulted in fines of \$10,000 to \$25,000.

B. Review of Robert Mileur’s West End Landfill Inspection Reports

OEIG investigators obtained and examined copies of Robert Mileur’s IEPA inspection reports for West End. The records revealed that, between 2005 and 2009, Mr. Mileur inspected West End on 13 separate occasions. During this time period, Mr. Mileur made the following four findings:

Date	Violation(s)
April 21, 2006	Two uncovered refuse containers
August 31, 2006	Use of unpermitted portion of landfill
March 28, 2007	Overfilling one landfill cell

Mr. Mileur did not report any violations during his other ten inspections of West End.

¹ West End’s response is due on April 26, 2011.

C. Review of [Employee 2's] West End Landfill Inspection Report

OEIG investigators obtained and examined a copy of [employee 2's] October 13, 2010 IEPA inspection report for West End. [Employee 2's] inspection revealed 29 violations of the Illinois Environmental Protection Act and the Illinois Administrative Code. [Employee 2] cited West End for violations identical to each of Mr. Mileur's previous findings. In addition, [employee 2's] report included the following findings:

- Failure to properly dispose of asbestos
- Failure to properly manage tires
- Two additional instances of failing to properly cover waste
- Two instances of improperly accepting special, i.e. industrial or chemical, waste
- Failure to prevent unauthorized access to the facility
- Failure to properly manage site drainage
- Failure to implement a load check program
- Failure to adequately light the facility
- Failure to properly compact waste
- Failure to demonstrate proper rector controls
- Failure to provide access to wheelwash
- Eight instances of improper or inadequate recordkeeping

D. Interviews of [the owner]

On February 23, 2011 and April 12, 2011, OEIG investigators interviewed West End owner [the owner]. During the interview, [the owner] confirmed that Mr. Mileur inspected West End between 2005 and 2009. [The owner] recalled that Mr. Mileur often provided West End time to address violations rather than reporting them to IEPA. [The owner] explained that every IEPA inspector that preceded Mr. Mileur also provided West End time to remedy minor violations rather than report them. [The owner] advised that IEPA did not inspect West End between September 2009 and October 2010.

[The owner] noted that [employee 2] and IEPA employee [employee 3] inspected West End in October 2010, at which time they discovered over thirty violations. [The owner] recalled that [Employee 2] did not discuss the findings with him during the inspection. [The owner] noted that West End was in substantially the same condition for each inspection and that [employee 2's] findings were derived from issues that were present during Mr. Mileur's inspections. Specifically, [the owner] said that disposal of tires, issues with covering leachate (sewage) and other waste, boundary problems, and recordkeeping shortcomings were all present during Mr. Mileur's inspections.

E. Review of IEPA Enforcement Database

OEIG investigators reviewed the IEPA Enforcement Database, which includes records for cases filed since 2002 that resulted in a referral to the Illinois Attorney General for IEPA

violations or an IEPA Administrative Citations that resulted in a fine. A review of these records revealed six referrals, resulting in \$45,100 in fines, for violations at facilities in IEPA Region Seven,² which is where West End is located. These violations included a \$25,000 fine for open dumping of hazardous waste and accepting hazardous waste without a manifest and a \$9,600 fine for maintaining an open dump, insufficient well monitoring, and gas release. *People v. Flora*, PCB 06-133 (2006); *People v. TravelCenters of America, Inc.*, 04-CH-13 (2004). IEPA also referred other organizations located in Region Seven to the Illinois Attorney General for solid waste and land program violations, such as improper tire disposal, which resulted in fines of as much as \$65,920. *People v. Daniel L. Reynolds*, 08-CH-69 (2010). In addition, IEPA issued Administrative Citations, resulting in fines of as much as \$6,000, for violations in Region Seven similar to those observed by [employee 2], such as open dumping. *Illinois Environmental Protection Agency v. Herman F. Meyers*, AC 07-49 (2007). IEPA also issued an Administrative Citation to West End in 2004 for failure to collect and contain litter, which resulted in a \$500 fine. *Illinois Environmental Protection Agency v. West End Disposal Facility*, AC 04-76 (2004).

III. Investigation

A. Submission of False Inspection Reports

i. Review of Robert Mileur's IEPA Email Archive

OEIG investigators obtained and examined Robert Mileur's email archive. A review of the emails revealed that, on December 22, 2010, Mr. Mileur sent [employee 4] an email with the words "Pro Business" in the subject line. In his email, Mr. Mileur questioned [employee 2's] motives for finding IEPA violations at West End. Mr. Mileur also noted that issuing reports with numerous violations "is making us look bad in the eyes of not only the public but small businesses as well."³

ii. Subject Interviews Regarding Submission of False Reports

1. First Interview of Robert Mileur

On March 23, 2011, OEIG investigators interviewed Robert Mileur. During the interview, Mr. Mileur said that he was required to document every IEPA violation he saw while conducting inspections. Mr. Mileur noted that, during an inspection, he makes a written record of the violations, which he files with IEPA. Mr. Mileur advised that when he inspected West End and other facilities he did not always document "minor" violations that he felt the facility could easily address. Mr. Mileur noted that he continues to adhere to this practice because he is "pro business" and believes IEPA is responsible for aiding small business in southern Illinois. Mr. Mileur said he makes a mental note of the "minor" violations that he sees and follows up with the facility owner thereafter. When asked when he revisited the "minor" violations, Mr. Mileur responded that he addresses them three months later during the next quarterly inspection. Mr. Mileur said he could not define what he means by "minor" violations. Mr. Mileur also said

² IEPA Region Seven is comprised of 22 counties in southeast Illinois.

³ During his OEIG interview, Mr. Mileur stated that he intended this email to be an EEO complaint.

he believed he had discretion whether to document “minor” regulatory violations, but acknowledged that he did not know of any IEPA policy that granted him such discretion.

2. Second Interview of Robert Mileur

On April 14, 2011, OEIG investigators reinterviewed Robert Mileur. During the interview, investigators provided Mr. Mileur with a copy of [employee 2’s] October 13, 2010 IEPA inspection report. After reviewing the document, Mr. Mileur said that he had previously seen but had not documented many of the same violations [employee 2] reported. Mr. Mileur said he did not report the following violations which [employee 2] had reported because he believed they were “minor:”

- Failure to properly dispose of asbestos
- Failure to properly manage tires
- Failing to properly cover waste
- Improperly accepting special, i.e. industrial or chemical, waste
- Failure to prevent unauthorized access to the facility
- Failure to properly manage site drainage
- Failure to implement a load check program
- Failure to adequately light the facility
- Failure to properly compact waste
- Failure to demonstrate proper rector controls
- Failure to provide access to wheelwash
- Overfilling portions of the landfill
- Failure to keep waste within the landfill boundaries
- Record keeping related to waste coverage

Mr. Mileur said these violations were “minor” because he believed West End could remedy them quickly. In light of the fact that Mr. Mileur considered the above violations “minor,” investigators asked Mr. Mileur what constituted a major violation. In response, he said that failing to maintain licenses and manifests or repeated violations of regulations pertaining to hazardous or special waste would be a major violation. Mr. Mileur advised that his reporting a violation would not necessarily result in a fine or criminal prosecution, but acknowledged that his failure to report the above referenced violations prevented IEPA from fining West End.

B. Conduct Which Undermined IEPA Inspections

i. Witness Interviews Regarding Impairment of IEPA Operations

On February 23, 2011, OEIG investigators interviewed [redacted] and West End Owner [the owner]. During their interviews, both [redacted] and [the owner] said that [employee 2] inspected West End in October 2010 and reported more than thirty IEPA violations. Both also said that they contacted Mr. Mileur for information regarding [employee 2’s] inspections but that Mr. Mileur said that he could not provide any information regarding a pending inspection. [Redacted] recalled that she informed Mr. Mileur that she believed [employee 2] unfairly targeted West End. In response, Mr. Mileur stated that [redacted’s] assessment sounded like

[employee 2's] personality. [The owner] said that Mr. Mileur told him ([the owner]) that he was unsure if [employee 2] was qualified to inspect landfills.

ii. *Review of Robert Mileur's IEPA Email Archive*

OEIG investigators obtained and examined Robert Mileur's IEPA email archive. A review of the emails revealed that, between December 3, 2010 and January 19, 2011, Mr. Mileur sent the following four messages relating to IEPA employee [employee 2]:

Date and Recipient	Relevant Email Text
December 3, 2010 [Employee 5]	Now you have teamed up with [employee 2] and [employee 6]. Oh, that is going to get you places. They are so beloved by everyone around here. Two antisocial and abrasive personalities...good match now that I think of it. Well, I guess I have said enough and I kept it fairly clean. You can go ahead and forward it to [employee 1] if you like, I really don't give a rip. He has a checkered past himself from what I have been told. Just make sure you tell him that [employee 2] didn't inspect West End for over a year and didn't follow the quarterly inspection protocol. The whole surprise inspection crap was something created by [redacted] and, according to the Solid Waste Inspection Manual, is not the way to do a [landfill] inspection anyway.
December 22, 2010 [Employee 5]	[Employee 2] is so dumb that she doesn't realize she is messing with people of power like [redacted] who owns half of the interest in West End. There is part of me that wants to warn her but I am just going to let it play out until she fries. She was even over talking to Big Tea this week digging for information on hydrology so she can nail West End for some other permit violation. She has some personal vendetta that really has no basis.
January 13, 2011 [Employee 7]	Everywhere [employee 2] goes she finds problems. Some are legitimate and some are off the wall crazy. She has no common sense and has no idea how things work in the real world. She inspects the landfill and doesn't even understand basic hydrology. Even goes as far as questioning the engineered footprint of the facility.
January 19, 2011 [Employee 8]	[Employee 2 and employee 3] are meeting with [employee 1] about West End right now and they are talking softly so I cannot hear them. [Employee 2] is questioning their professional land survey and she had non-professional people from permits come down with GPS units to survey. Funny when you think about it. She is one evil woman with an axe to grind. Wow!

iii. *Review of Robert Mileur's Personal and IEPA Telephone Records*

OEIG investigators obtained and examined copies of Mr. Mileur's personal and IEPA telephone records for calls between May 1, 2010 and December 17, 2010. A review of these records revealed that Mr. Mileur made or received 176 telephone calls with [the owner] and other West End employees during this period. Mr. Mileur did not inspect West End during this time period.

iv. Interview of Robert Mileur Regarding Impairment of IEPA Operations

During his March 23, 2011 OEIG interview, Mr. Mileur said that he believed [employee 2] conducted IEPA inspections in an adversarial manner, which did not promote a positive image of the agency. Mr. Mileur noted that he discussed [employee 2's] inspections with [the owner] and other individuals both inside and outside of IEPA. Mr. Mileur acknowledged that he informed [the owner] that he believed [employee 2] was not qualified to conduct IEPA inspections. Investigators provided Mr. Mileur with copies of the emails in which he discussed [employee 2's] inspections and with copies of his telephone records reflecting 176 calls to and from West End. After reviewing the documents, Mr. Mileur explained he discussed [employee 2's] inspections at West End during those emails and phone calls. Mr. Mileur acknowledged that these emails and his discussions with [the owner] that were critical of [employee 2] could undermine the integrity of the agency.

C. Breach of Confidentiality Allegation

i. Review of Robert Mileur's Personal and IEPA Telephone Records

OEIG investigators obtained and examined copies of Mr. Mileur's personal and IEPA telephone records for calls between May 1, 2010 and December 17, 2010. A review of these records revealed that Mr. Mileur called [the owner] five times for a total of less than seven minutes immediately before the IEPA surprise inspection that [employee 2] conducted at West End on October 13, 2010. The records did not reflect any contact with West End employees prior to any other surprise IEPA inspection.

ii. Interview of [Employee 2] Regarding Confidentiality

On December 21, 2010, OEIG investigators interviewed [employee 2]. During the interview, [employee 2] said that she conducted a surprise inspection at West End Landfill employee [redacted's] home on August 25, 2010. [Employee 2] recalled that when she arrived at [redacted's] home and identified herself, [redacted's spouse] informed her that [redacted] would be home shortly. [Employee 2] said this intermediation surprised her because [redacted's spouse] had not had time to contact [redacted].

iii. Interviews of West End Employees Regarding Confidentiality

On February 23, 2011, OEIG investigators interviewed West End employees [redacted], [the owner], and [redacted] regarding surprise IEPA inspections. During their interviews, each said that Mr. Mileur never contacted them to warn them of upcoming IEPA inspections. [redacted] explained that, on August 25, 2010, he was driving home for lunch when [redacted's

spouse] telephoned him to advise that an IEPA inspector was at their residence. [The owner] said that advance notice of an inspection would not benefit West End, because it would be impossible to address any potentially serious violations immediately.

iv. Interview of Robert Mileur Regarding Confidentiality

During his March 23, 2011 OEIG interview, Mr. Mileur said that he never informed employees at West End or any other facility subject to IEPA regulation of the dates and times of surprise IEPA inspections. Mr. Mileur noted that providing a facility employee advance notice of an inspection would not be beneficial to the facility because it would be impossible to remedy on short notice conditions that could be cited as violations. Mr. Mileur stated that he informed [redacted] that, at some point, [employee 2] and [employee 3] would conduct an inspection but did not provide the date. Mr. Mileur also said that he did not know when [employee 2] and [employee 3] were planning surprise inspections.

IV. Analysis

A. Robert Mileur Violated IEPA Policy by Submitting False Reports

IEPA Employee Handbook Chapter 11-2(N) prohibits employees from knowingly submitting false or misleading statements or reports.

Robert Mileur knowingly submitted false IEPA inspections reports. Mr. Mileur acknowledged that he is required to report every violation he sees during inspections. In 2004, IEPA fined West End \$500 for failing to collect and contain litter within an assigned cell. Between 2005 and 2009, Mr. Mileur inspected West End thirteen times and reported only four IEPA violations, one of which related to failure to contain litter, and none since 2007. [Employee 2] discovered 29 IEPA violations during her first visit to the facility following Mr. Mileur's reassignment. [The owner] informed investigators that West End was in substantially the same condition during each of Mr. Mileur's inspections and inspections that followed Mr. Mileur's reassignment. Mr. Mileur said that he often saw, but did not report, violations he considered "minor" at West End and other facilities, because he wanted to provide the facility owners an opportunity to correct the issues. In fact, Mr. Mileur admitted that he saw, but did not report, many of the violations [employee 2] reported in October 2010. Thus, Mr. Mileur submitted reports that did not record all IEPA violations. Mr. Mileur also confirmed that he continues to overlook violations he considers "minor." As a result, Mr. Mileur knowingly filed, and continues to file, inaccurate IEPA inspection reports.

The OEIG investigation revealed that Mr. Mileur failed to report apparently serious regulatory violations at West End. After reviewing [employee 2's] October 2010 inspection report, Mr. Mileur said that he considered nearly every violation she reported to be "minor." This illustrates a number of practical problems with Mr. Mileur's conduct.

First, in light of [employee 2's] report, Mr. Mileur's practice of not reporting "minor" violations is not consistent with other IEPA inspectors.

Second, because Mr. Mileur's designation of a violation as "minor" was not based on any IEPA policy and was inconsistent with [employee 2's] reporting practice, Mr. Mileur apparently did not report violations that are required to be reported per IEPA guidelines.

Third, Mr. Mileur said that during his last inspection at West End in July 2009, he saw, but did not report, many of the violations included in [employee 2's] October 2010 inspection. Thus, Mr. Mileur's characterization of these violations as capable of being quickly addressed is faulty as West End either could not or did not remedy any of the "minor" violations between July 2009 and October 2010.

Fourth, Mr. Mileur admitted that he saw and did not report violations at West End related to, among other things, storing and accepting potentially hazardous waste, failing to cover waste, permitting unauthorized access to the facility, and improper or inaccurate recordkeeping. Mr. Mileur explained that he considered these violations "minor." It is hard to imagine how asbestos issues or improperly accepting industrial or chemical waste can be considered a "minor" violation. Indeed, the Illinois Environmental Protection Act attaches civil and criminal penalties for these violations. 415 ILCS 5/42; 415 ILCS 5/44. In addition, [employee 1] informed investigators that IEPA cited West End for the most serious violations he had seen at any landfill in over a decade. In fact, IEPA referred to the Illinois Attorney General and sought fines of more than \$65,000 for single instances of similar violations (improperly disposing of tires and accepting hazardous waste) and of up to \$6,000 for other less serious violations (open dumping and failure to contain litter) from the same geographic area. Accordingly, Mr. Mileur's belief that [employee 2's] findings were primarily "minor" violations is inconsistent with IEPA's historic practice and current institutional beliefs.

Fifth, Mr. Mileur admitted that he did not revisit West End or any other facility to ascertain whether the facility remedied the "minor" violations that he saw but did not report until the next inspection three months later. Therefore, Mr. Mileur ignored initial regulatory violations and then never took any action to determine whether the violations were ongoing. In effect, Mr. Mileur enabled an environment of non-compliance that could have endangered the health and well-being of the public while disregarding his primary job responsibility, which is monitoring southern Illinois landfills for compliance with Illinois law. It is apparent that West End did not correct "minor" violations, because the violative conditions continued to exist during and after the time period Mr. Mileur was assigned to inspect West End.

Mr. Mileur attempted to justify his actions on two grounds. First, Mr. Mileur stated that he believes he has the discretion to overlook violations that he believes to be minor. However, [employee 1], [redacted identifying information], informed investigators that IEPA requires inspectors to document all violations. In any event, the OEIG believes that the violations Mr. Mileur ignored were not minor. Second, Mr. Mileur explained that he ignored violations at West End and other facilities because he is "pro business" and believes that the IEPA is responsible for aiding small businesses in southern Illinois. However, IEPA regulates businesses and monitors compliance with those regulations in order to protect the well-being of the people of Illinois. IEPA's mission does not include fostering business growth. In addition, Mr. Mileur's job duties and responsibilities as an Environmental Protection Specialist do not include fostering business

growth or expounding his opinion regarding IEPA's relationship with businesses. Moreover, because of his "pro business" approach, Mr. Mileur apparently felt it was his job to withhold information from IEPA regarding regulatory violations at West End and other facilities in southern Illinois, even though the Illinois Environmental Protection Act attaches fines of up to \$50,000 for some of these violations. 415 ILCS 5/42. Accordingly, Mr. Mileur's decision not to report these violations may have prevented the State from collecting hundreds of thousands of dollars in administrative fines like those it collected for other less severe violations. Therefore, the allegation that Mr. Mileur knowingly submitted false inspection reports is **FOUNDED**.

B. Robert Mileur Violated the IEPA Employee Conduct Policy

IEPA Employee Handbook Chapter 11-2(G) prohibits employees from engaging in conduct that brings discredit to the agency, impedes the agency's effort to achieve its policies, or tends to impair agency operation.

Robert Mileur brought discredit to IEPA and undermined the integrity of [Employee 2's] inspections by criticizing her qualifications and performance to other State employees and West End employees. Between December 3, 2010 and January 19, 2011, Mr. Mileur sent four emails to other State employees in which he indicated that [employee 2] was not properly conducting inspections, was unqualified, and had a personal interest in citing West End for violations.

More troubling than the emails to other State employees are the 176 telephone conversations Mr. Mileur had with West End employees from May 1, 2010 through December 17, 2010. Mr. Mileur was not responsible for regulating West End during this period and had no IEPA business reason to be speaking to West End employees. Mr. Mileur admitted that he criticized [employee 2's] qualifications and inspections during these telephone calls. [Redacted] and [the owner] also said that Mr. Mileur questioned [employee 2's] qualifications and sought to confirm what were unfounded suspicions that [employee 2] unfairly targeted West End. Mr. Mileur's emails further confirm his negative opinion of [employee 2].

The IEPA is responsible for, among other things, inspecting landfills in Illinois. The independence and integrity of these inspections is critical, because inspection findings can result in administrative fines or civil prosecution by the Illinois Attorney General. Mr. Mileur's criticism of [employee 2] to [redacted] and [the owner] undermined [employee 2's] inspections. Indeed, West End or other facilities could try to use Mr. Mileur's statements to support a claim that IEPA inspections, and in particular [employee 2's] inspections, are unreliable, inaccurate, or include findings derived from a personal vendetta, though there is no indication they are not reliable. As such, Mr. Mileur's discussions could jeopardize potential administrative or criminal actions regarding West End, even though he admitted the items cited by [employee 2] were violations.

The OEIG investigation found no evidence that Mr. Mileur's criticisms of [employee 2] had any basis in fact. However, even if there were a basis for his criticisms, voicing those criticisms to West End employees would still undermine IEPA operations. If Mr. Mileur had concerns about [employee 2's] qualifications or performance, he should have directed those

concerns to IEPA management, rather than to regulated landfills. Therefore, the allegation that Mr. Mileur undermined the integrity of IEPA inspections is **FOUNDED**.

C. Breach of Confidentiality

IEPA Employee Handbook Chapter 15-5(A)(2) states that confidential materials, including investigative files, are not to be released to anyone in the absence of legal authorization.

The OEIG investigation did not reveal sufficient evidence to find that Robert Mileur disclosed confidential IEPA inspection information. Mr. Mileur denied informing [redacted], [the owner], and [redacted] of the dates of surprise IEPA inspections, and each of the West End employees interviewed denied receiving advance warning of inspections. Although Mr. Mileur telephoned [the owner] five times immediately prior to the October 13, 2010 IEPA inspection, there is no evidence that Mr. Mileur knew of the inspection or that he warned [the owner] that it was scheduled. Therefore, the allegation that Mr. Mileur breached confidentiality is **UNFOUNDED**.

V. Recommendations

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Robert Mileur submitted false IEPA inspection reports.
- **FOUNDED** – Robert Mileur undermined the integrity of IEPA inspections and brought discredit to IEPA.
- **UNFOUNDED** – Robert Mileur forewarned landfill owners of surprise IEPA investigations.

The OEIG recommends that Robert Mileur be discharged for undermining the integrity of IEPA investigations and submitting false IEPA inspection reports.

No further investigative action is warranted and this case is considered closed.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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December 21, 2011

Neil Olson
Deputy Director
Office of Executive Inspector General
607 East Adams, 14th Floor
Springfield, Illinois 62701

Re: OEIG Case No. 10-01246

Dear Mr. Olson:

I am writing to follow up on the matter referenced above. As you are aware, on June 2, 2011, the Office of the Executive Inspector General ("OEIG") submitted a final summary report to the Illinois Environmental Protection Agency ("Illinois EPA") following your office's conclusion of an investigation into allegations regarding Illinois EPA employee Robert Mileur. As part of that final report, the Illinois EPA was directed to respond to the OEIG with the intended course of action to be taken based upon the final report's findings. Here is a brief timeline of events that occurred following receipt of the OEIG final report.

June 17, 2011	Mileur placed on paid administrative leave.
June 23, 2011	Investigative interview conducted with Mileur.
June 30, 2011	Written response received from Mileur.
July 21, 2011	Pre-disciplinary meeting held, charges presented to Mileur.
July 29, 2011	Written rebuttal to pre-disciplinary meeting received from Mileur.
August 3, 2011	Mileur placed on non-paid suspension pending decision on discharge.
August 22, 2011	CMS discharges Mileur for cause.
August 29, 2011	Mileur files for hearing with the Civil Service Commission ("CSC").
September 8, 2011	The case is assigned to the Attorney General's Office ("AGO").

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Elgin • 595 S. State, Elgin, IL 60123 • (847) 608-3131

Bureau of Land — Peoria • 7620 N. University St., Peoria, IL 61614 • (309) 693-5462

Collinsville • 2009 Mall Street, Collinsville, IL 62234 • (618) 346-5120

Des Plaines • 9511 W. Harrison St., Des Plaines, IL 60016 • (847) 294-4000

Peoria • 5415 N. University St., Peoria, IL 61614 • (309) 693-5463

Champaign • 2125 S. First St., Champaign, IL 61820 • (217) 278-5800

Marion • 2309 W. Main St., Suite 116, Marion, IL 62959 • (618) 993-7200

October 4, 2011 Mileur returned to work in a different position with a 30 day suspension.

As you can surmise by the events, after Mr. Mileur's case was assigned to the AGO for representation of the Illinois EPA, discussions began in an attempt to resolve the CSC case. These negotiations were undertaken following a discussion with counsel over the relevant facts in the case and a consideration of the expected best and most likely outcomes from the CSC hearing and ruling on the merits of the case.

While the result was something less than discharge, it did involve the imposition of a 30-day suspension without pay as discipline for the conduct outlined in CMS's charges. Further, the settlement called for a directed job transfer within the Illinois EPA, with the hope being that future conflict could be averted and that Mr. Mileur could put into a productive position. Finally, the Illinois EPA agreed to pay Mr. Mileur 20 calendar days of back pay, such that no further claims for wages or back pay would be considered. The CSC case was then terminated with prejudice with no attorney's fees to be paid by either party.

If you have any questions regarding the disposition of this matter, please do not hesitate to contact me at

Sincerely,

John J. Kim
Interim Director

IN THE STATE OF ILLINOIS
CIVIL SERVICE COMMISSION

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Petitioner,

-vs-

ROBERT MILEUR,

Respondent.

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No. DA-13-12

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (hereinafter referred to as "Agreement") is made and entered into by and between the Respondent ROBERT MILEUR and his counsel, Carl Draper, with the law firm of Feldman, Wasser, Draper & Cox (hereinafter referred to as "Respondent"), and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (hereinafter referred to as "Department") by and through its counsel, Lisa Madigan, Attorney General for the State of Illinois.

RECITALS

WHEREAS, there is presently pending a matter before the State of Illinois Civil Service Commission entitled IEPA v. Robert Mileur, Number DA-13-12.

WHEREAS, the Respondent and the Department desire to resolve any and all claims relating to the Civil Service Commission proceedings.

NOW, THEREFORE, in consideration of the promises and representations made herein, the sufficiency of which is hereby acknowledged, the parties hereto agree to the following.

1. The Department hereby agrees to withdraw its pending charges against the Respondent. The Respondent agrees to complete any and all forms as may be necessary

for each administrative agency to effectuate formal withdrawal of the charges and case closure. The Respondent further agrees to effectuate a formal withdrawal of his grievance related to the underlying charges of this case.

2. The Respondent, his heirs, successors and assigns, agrees to release, and hereby releases and forever discharges the Department and the State of Illinois, their agents, former and present employees, successors, heirs, and assigns and all other persons (hereinafter collectively referred to as "Releasees") from all actions, claims, demands, defenses, setoffs, suits, causes of action, controversies, disputes, equitable relief, compensatory and punitive damages, attorney's fees, costs, and expenses which arose or could have arisen from the facts alleged or claims made in the instant case, which the Respondent owns, has or may have against the Releasees, whether known or unknown, from the beginning of time until the effective date of this Agreement, including but not limited to those at law, pursuant to contract or in tort, actions under 42 U.S.C. §1983 and Title VII of the Civil Rights Act of 1964, as amended, or in equity.

3. Respondent agrees to accept a transfer in the Department from his position as Inspector for the Department's Bureau of Land Field Operations Section, to a position as Project Manager to the Department's Bureau of Land Leaking Underground Storage Tank Section, effective Monday, October 3, 2011.

4. The Respondent hereby accepts a 30-day suspension without pay as discipline for the conduct that is the factual basis of the charges pending in the Civil Service Commission case entitled IEPA v. Mileur, DA-13-12. The Respondent agrees that his personnel file shall reflect that he received a 30-day suspension for the acts or omissions enumerated in Civil Service Commission case DA-13-12. The time from August 3, 2011, through September 2, 2011, will be classified as this 30-day suspension.

5. The time from September 2, 2011, through October 3, 2011, constitutes thirty-two (32) days during which Respondent was unpaid. The Respondent agrees to accept and the Department agrees to pay Respondent an amount equal to twenty (20) calendar days of back pay from funds appropriated by the Illinois General Assembly for Fiscal Year 2012. The Respondent acknowledges that all wages due and owing to him from the Department through and including October 3, 2011, will have been paid in full after such payment, and further agrees not to assert or pursue any additional claim for back pay above and beyond the agreed twenty (20) days against the Department in any forum.

6. The Parties acknowledge that the entire sum shall be subject to applicable laws governing the State Comptroller's obligation to withhold funds that Plaintiff may owe to other persons or to state agencies. Plaintiff may contest the validity of those claims through appropriate state procedures.

7. The Civil Service Commission appeal of the Respondent's discharge in the instant case shall be terminated and dismissed with prejudice and without attorney's fees, costs or expenses, by agreement of the parties.

8. No promise has been made to pay or give the Respondent any greater or further consideration other than as stated in this Agreement. All agreements, covenants, representations, and warranties, express or implied, oral or written, of the parties hereto concerning the subject matter of this Agreement are contained in this Agreement. No other agreements, covenants, representations, or warranties, express or implied, oral or written, have been made by any party hereto to any other party concerning the subject matter of this Agreement. All prior and contemporaneous negotiations, possible and alleged agreements, representations, covenants, and warranties, between the parties concerning

the subject matter of this Settlement Agreement are merged into this Settlement Agreement. This Agreement contains the entire agreement between the parties.

9. The Respondent enters into this Agreement as a free and voluntary act with full knowledge of its legal consequences. The Respondent has not relied on any information or representations not contained in this Agreement.

10. This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.

11. This Agreement may not be changed, modified or assigned except by the written agreement of the Respondent, his counsel, the Illinois Environmental Protection Agency, and the Illinois Attorney General.

12. If any provision of this Agreement is declared invalid or unenforceable, the balance of this agreement shall remain in full force and effect.

13. Each party to this Agreement acknowledges that he or she or it has participated in its drafting.

Date 9/30/11 ROBERT MILEUR
Respondent

Date 09/30/11 CARL DRAPER
Counsel for Respondent

Date 9/30/11 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: ROBERT MILEUR)

10-01246

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

X Below is my public response. Please make this response public if the summary report is also made public; or

 Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

[signed]
Respondent's Signature

2/24/12
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

ANSWER TO OEIG FINAL REPORT

I. Initial Allegation and Subsequent Allegations

I understand that a complaint was received by a fellow employee at the Illinois Environmental Protection Agency (IEPA). The account given by the employee is not based upon any personal knowledge by that employee of my performance as an Environmental Protection Specialist for the time period covered in this investigation. Further, despite my repeated requests for information, there is no one who has been able to provide any credible testimony or documentation to support the allegations in this report. I never submitted false IEPA inspection reports nor undermined IEPA inspections as will be set forth below.

II. Background

A. Interviews of {Employee 1} Relating to IEPA Inspections

As an Environmental Protection Specialist, I was trained on how to perform inspections of the sites that were assigned to me. I always conducted my investigations in accordance with the training that I had received. As the interview notes, I was responsible for inspecting the West End Landfill until August 2010. I had not developed any personal relationship with the operator of that landfill, Rick Lane, nor did he ever receive any favoritism. Instead, as is shown in the next section, I initiated reports with violations whenever I found them.

This employee claims to have found numerous violations in October, 2010, but at no time has any individual been able to provide any testimony providing inspection information showing that any of the violations that may have been observed in October, 2010 existed at any of the times that I visited the facility. I have reviewed the October 2010 inspection report and none of those violations were present at the last time that I was responsible for an inspection of the West End Landfill. While the inspection report indicates that the Employee initiated that, I have reviewed information concerning that matter and know that the Illinois Attorney General had not initiated any civil prosecution of any kind up through and including October, 2011. Simply because an inspector notes probable violations does not mean that there is adequate evidence that they exist. Had these allegations been substantiated by that investigation, the Illinois Attorney General certainly would have initiated a civil action for them sooner than the twelve months that

elapsed in this particular case. While the employee who was interviewed indicated that fines typically result in penalties of \$10,000 or more, it is not credible to believe that any such fines would be leveled in this case, especially in light of the failure of the Attorney General's office to initiate any prosecution.

B. Review of Robert Mileur's West End Landfill Inspection Reports

This report correctly shows that in 2006 and 2007 I made findings of when my inspection disclosed violation of the regulations. The reason that my reports for the other ten inspections did not contain any other violation reports is because no other violations existed during any of those inspections.

C. Review of {Employee 2's} West End Landfill Inspection Report

The OEIG investigator assumes that because Employee 2 had inspection reports claiming 29 violations of the Illinois Environmental Protection Act, in fact, it is not clear that those violations existed or can be proved. In any event, there is no indication that any of those violations existed on the last inspections performed by Robert Mileur.

It is important to note that violations of the kind listed here would be violations that happened on the particular day that the inspection takes place. In other words, failure to properly dispose of asbestos would not be something that could be noticed after the asbestos has already been covered up in the landfill with other materials. Another example would be the management of tires. Typically, landfills receive automobile tires that have to be disposed of separately and cannot be placed in the landfill. Tires are not allowed to be maintained at the landfill for more than a short time necessary to process them and remove them to appropriate disposal sites. As a consequence, issues concerning automobile tires are very transient and happen only for a day or a short period of time when tires are on the site.

I have also reviewed the inspection report and do not find adequate documentation by which the landfill can be properly cited for such things as the failure to properly manage site drainage. These items were not adequately detailed in the report to make it credible that any of these were ongoing issues at the landfill.

D. Interviews of [the owner]

While [the owner] recalls that his landfill operations were substantially in the same condition for difference inspections, issues including the disposal of asbestos or the management of tires or other specifics would depend upon operations for a particular day. In other words, it is not believable that asbestos was regularly received at the landfill. Further, it is not possible to determine whether asbestos is present in any material at the landfill without scientific testing. Such scientific testing has not been documented in any of the materials I have seen. As to matters including the disposal of tires, I never observed tires being accepted in the landfill, but instead, tires may be temporarily stored under proper conditions to prevent accumulation of water or other violations and then removed from the site for appropriate disposal.

E. Review of IEPA Enforcement Database

The review of the IEPA Enforcement Database only shows that certain violations in this Southern Illinois region and adjudications of violations that resulted in fines. None of this, in any way, addresses the question of the conditions that were observed during my inspections.

III. Investigation

A. Submission of False Inspection Reports

During the interviews I did indicate that, in accordance with the training that I had received (minor) violations might be discovered from time to time that would include insignificant items. In my mind, minor violations include the possibility that on windy days pieces of paper or lightweight shopping bags might blow out of the trucks or off the landfill. Measures are supposed to be taken by landfill operators to prevent litter from leaving the permitted area, but it is not reasonable to cite an operator for a single piece of paper that has blown off-site. Any comments about being "pro-business" were made only in the context that IEPA exists with a mission to accomplish compliance with environmental laws and regulations and that my approach was always to work with businesses in assuring compliance rather than to be viewed as always looking for ways to find violations. I have done this in accordance with my training because it assists me in being able to

obtain the cooperation of the operator of a landfill in order to adequately get all of the information necessary for every inspection.

There are assertions that during a second interview, I did not report the violations listed in that section because they were "minor." That is not the case. I did not report improper disposal of asbestos because there never was any improper disposal of asbestos during any of my inspections. The notes from the investigator do not accurately portray my answers to that question and the IEPA ultimately agreed to resolve the employment disciplinary issues in large part because of the lack of any evidence to suggest that any of my inspections were improper.

B. Conduct Which Undermined IEPA Inspections

The report accurately indicates that when I was contacted by the landfill operator for information about the inspection done by Employee 2, I could not provide any information. Likewise, any comment I made about that employee's qualifications were made because I do not know how well trained Employee 2 is. In no way did I undermine IEPA in any such comments.

I believe the e-mail that is being reported in the OEIG document was all internal and in no way interfered with, or disrupted any of IEPA's operations. It certainly did not undermine it, and was written in part to be able to report the problems I had with a fellow employee. Surprisingly the OEIG report bases its conclusions on the negative comments that Employee 2 made about me but then takes my negative comments about Employee and suggests that those comments undermine IEPA and its operations. Actually, the material that I put in my e-mails was accurate.

C. Breach of Confidentiality Allegation

Portions under (C) should all be redacted. All of the allegations under this section are found by the OEIG to be unfounded. I have never breached any confidentiality requirements of IEPA, and have always conducted my inspections and conformity with the policies of the agency and consistent with my training.

IV. Analysis

A. Robert Mileur Violated IEPA Policy by Submitting False Reports

The OEIG report has no basis for making a determination that I submitted false inspection reports. Instead, the evidence shows that the West End Landfill went without inspection for an extremely long time after my last inspection of that site. My last scheduled inspection was in 2009, and the allegations about violations found by a different employee found more than a year after my last inspection opportunity. I tried to clarify all of this during the investigation. Because there was disciplinary action pending against me, I worked with my attorney to request from IEPA all documents and evidence to support allegations that I had submitted false reports. That discovery produced no evidence by any person with personal knowledge that there were any of the same kinds of violations present at any of the times that I inspected this landfill.

The OEIG report contains the sloppy conclusion that if there were violations in 2010, those same violations had to have happened also in 2009. This is supported by the fact that the Illinois Attorney General's office not only represented IEPA in my disciplinary appeal before the Illinois Civil Service Commission, but is also the entity charged with filing any civil actions for enforcement. At the last time that I was able to check on the status of any such filing, more than a year had passed since the October 2010 inspection report was turned in and no civil action was filed. It is not credible that all of those supposed violations could even be proven.

B. Robert Mileur Violated the IEPA Employee Conduct Policy

A proper review of my e-mail and comments to others shows that I never undermined the IEPA and its integrity with the landfill operator. As a general matter, all that is shown from the interviews was my reluctance to talk about the other inspector and her qualifications.

The internal e-mails raise legitimate questions about Employee 2's qualifications and motives for her actions. I was regularly the subject of her criticism, and my comments to other employees that I made were a result of my concerns that her actions were unreliable, inaccurate, or were done with malice to simply criticize my work. This is certainly neither an ethics violation nor even appropriate for disciplinary action.

Ultimately, I did resolve issues concerning my appeal to the Illinois Civil Service Commission. There are practical reasons for having settled these issues, but that was true for both parties. Based on the foregoing, it was clear that IEPA could not have proven that I had submitted false reports or that any of my conduct had truly undermined any of IEPA's operational needs. The outcome of the settlement was to allow me to take a position in a division where I would not have to work directly with the instigators of false allegations against me, which seemed like action in my best interest.

Because of this, the conclusions in the OEIG report are inherently suspect and should not be published. If they are, they should only be published with this rebuttal.